

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, September 6, 2000, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Russ Bayer, Jon Carlson, Steve Duvall, Linda Hunter, Gerry Krieser, Patte Newman, Tommy Taylor and Greg Schwinn (Cecil Steward absent); Kathleen Sellman, John Bradley, Kent Morgan, Ray Hill, Mike DeKalb, Rick Houck, Steve Henrichsen, Mike Brienzo, Jennifer Dam, Nicole Fleck-Tooze, Ed Zimmer, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair, Russ Bayer, called the meeting to order and requested a motion approving the minutes for the regular meeting held August 9, 2000. Motion to approve made by Duvall, seconded by Schwinn and carried 7-0: Bayer, Carlson, Duvall, Hunter, Krieser, Taylor and Schwinn voting 'yes'; Newman abstaining; Steward absent.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Taylor and Schwinn; Steward absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT 1864; SPECIAL PERMIT NO. 1857, FINIGAN RIDGE COMMUNITY UNIT PLAN; PRELIMINARY PLAT NO. 00020, FINIGAN RIDGE; FINAL PLAT NO. 99013, LINCOLN PLATING ADDITION; FINAL PLAT NO. 99049, SILVER SPRINGS 4<sup>TH</sup> ADDITION; COUNTY FINAL PLAT NO. 00012, BENTZINGER'S PLEASANT ACRES; FINAL PLAT NO. 00018, WILLOW SPRINGS ADDITION; COUNTY FINAL PLAT NO. 00024, IRONHORSE ACRES; STREET & ALLEY VACATION NO. 00012; and STREET & ALLEY VACATION NO. 00014.**

**Item No. 1.2a, Special Permit No. 1857; Item No. 1.2b, Preliminary Plat No. 00020 and Item No. 1.5, County Final Plat No. 00012,** were removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Schwinn and carried 8-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Taylor and Schwinn voting 'yes'; Steward absent.

Note: This is final action on Special Permit No. 1864, Lincoln Plating Addition Final Plat No. 99013, Silver Springs 4<sup>th</sup> Addition Final Plat No. 99049, and Willow Springs Addition Final Plat No. 00018, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 1857**  
**FINIGAN RIDGE COMMUNITY UNIT PLAN**  
**and**  
**PRELIMINARY PLAT NO. 00020,**  
**FINIGAN RIDGE**  
**ON PROPERTY GENERALLY LOCATED**  
**AT NORTH 84TH STREET AND WAVERLY ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Conditional approval.

These applications were removed from the Consent Agenda and had separate public hearing due to a letter received in opposition.

Mike DeKalb of Planning staff submitted a letter from John Hahn, attorney, on behalf of Retzlaff Farms, in opposition. They have concerns about draw down of water; they believe that any allowance for development will be detrimental to shortage of water and should not be approved.

DeKalb also submitted a revised page 2 of the staff report to reflect that this application is in conformance with the Comprehensive Plan (as opposed to not in conformance).

Proponents

1. **Mark Hunzeker** appeared on behalf of the owner and developer, Pearle Finigan. A previous submittal on this property showed rezoning to AGR with approximately 43 dwelling units. The recommendation at that time was to wait until the Comprehensive Plan is updated. At the suggestion of the staff, this applicant has chosen to come back with an application for a community unit plan, utilizing the existing AG zoning. This is in conformance with the Comprehensive Plan.

With respect to the opposition received, it is Hunzeker's understanding that the opposition is opposed to the draw down of water. Hunzeker referred to the map on p.23 of the agenda. The property on the east side of No. 84<sup>th</sup> street is being irrigated with a well that pumps something around 500+ gpm. The lots in this application will be more than a half mile away from the irrigation well. When computing the size for sanitary sewer in the city, generally speaking the rule is that the average household uses something around or less than 120 gallons per day. So, in a matter of a couple of minutes, that irrigation well will probably pump more water out of the aquifer than all 8 proposed dwelling units in one day. This proposal will not cause draw down or problems with the irrigation well.

Hunzeker noted that Condition #1.1.2 requires relinquishment of all access to Outlot A from Waverly Road. Because Outlot A will continue to be farmed, Hunzeker requested that "except for farm equipment" be added to Condition #1.1.2. This will allow farm access to Waverly Road.

Hunter inquired as to the potential for further development on the rest of Outlot A. Hunzeker stated that as it stands today, there will be none until such time as there is an amendment to the Comprehensive Plan that acreage development is appropriate here and a change of zone is applied for and approved. It will be used for farming until such time. Under the community unit plan, the proposed density is available under the existing zoning.

Bayer noted that Outlot A is not irrigated today, but he wondered whether it could be. And if so, would it pull down the same amount of water from the aquifer? Hunzeker stated that assuming that the well across the street is capable of pumping 500-700 gpm, he assumes the same thing could be done here.

Opposition

1. **Allen Retzlaff, President of Retzlaff Farms, Inc.**, testified in opposition. He farms the property adjacent to the proposal. He submitted that the water, both domestic and irrigation, is limited in this area of Lancaster County. The NRD has taken samples of the well water in the wells adjacent to the subject property. There has been a drop of the water aquifer and it took approximately 6 years to replenish the aquifer to get it to what it

is in the area now. In another 3-4 weeks, the NRD will be doing the well tests again in that area. With the drought we have had in the last 18-24 months, Retzlaff expects to see significant decline in the water level.

Retzlaff explained that the well Hunzeker discussed was put in in 1982, but no reports were requested until in 1994. In 1986 and 1987, the Finigan subdivision to the north showed a lot of neighbors complaining about access to water for domestic use. The wells do not pump 700 gpm in that area. We have two wells put together to run those systems which accentuates that there is not adequate water for what is being proposed. Retzlaff also owns property ½ mile south, and there are two abandoned irrigation wells because they could only get 450 gpm out of two wells.

Retzlaff also noted that there is AG zoning to the north, but up in the corner there are subdivisions shown that had problem with access to water in 1985 through 1990. He has been asked to haul water to lagoons within the County.

Retzlaff believes that this area needs to be considered for a longer period of time to determine what the water table is going to do. He has four wells in the half section--approximately three on the quarter mile line and one 25' off the public right-of-way on 84<sup>th</sup> Street. One will not pump over 300 gpm. It is marginal. He drilled seven different test wells on that quarter section. The deepest well is probably 125'.

Hunter noted that there were peak and valley periods. Retzlaff stated that the peaks and valleys are in direct correlation to the dry spells we had in 1984-1988. Hunter wondered whether the peak and fall between 1982 and 1987 is showing a diminishing supply. Retzlaff responded, stating that the amount of effect it has on the water aquifer in that area is related to the amount taken into the profile from above. We use that water and it takes a long time to replenish.

Hunter noted that as far back as 1983, there was a very significant dip but there was an extreme recovery; however, the recovery over the last 10 years is not what it was before. She assumes that the actual water level is not recovering. Retzlaff has property in other parts of the county with livestock wells that have never been out of water since the 30's and the wells and dams are empty. He is really concerned for the neighbors to the north (25-30 residents). He believes this will impact them.

### **Staff questions**

Carlson asked whether water testing is required when the developer gets the building permits. DeKalb advised that when they submit a final plat they will have to submit a water quality report. It is reviewed by the Health Dept. When a plat is approved, the groundwater report is reviewed by the Health Department, and in this case the Health Department concurred that there is adequate water for the lots (at that time, 46 lots). At the time of creation of lots, the well does not have to be drilled and tested.

Carlson wanted confirmation that a lot purchaser will know whether there is water on that lot. DeKalb indicated that that information would be available at that time.

**Response by the Applicant**

Hunzeker advised that this owner has had two test wells drilled and both show adequate water for this subdivision. Vince Dreeszen's report states that,

"The depth to water should range from about 80 to 115 feet depending on the ground elevation. Groundwater movement is to east-southeast. The total saturated thickness is expected to be 80 to 100 feet. Because of some potential loss in head in a particularly dry year and intensive irrigation withdrawal from nearby wells to the east and south, the pump in a well should be set sufficiently deep to account for seasonal drawdown of the aquifer."

We do have some years that are dryer than others. The amount of water that is drawn down for domestic use is very, very, very small in comparison to the draw down for irrigation. Dreeszen believes there is plenty of water and it will not adversely affect the rest of the property or the residential property to the northeast.

Public hearing was closed.

**SPECIAL PERMIT NO. 1857**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Schwinn moved approval of the Planning staff recommendation, with conditions, with the amendment to Condition #1.1.2 as requested by the applicant, seconded by Duvall and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**PRELIMINARY PLAT NO. 00020**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Duvall moved approval of the Planning staff recommendation, with conditions, seconded by Schwinn.

Hunter had concerns about the waiver requests. Schwinn believes the waivers requested are not unusual on acreage developments.

Hunter inquired about the waiver of block length. DeKalb explained that this is not unusual and it applies all the way around the edge of the subdivision. DeKalb further explained that in an acreage development, especially when clustered, the outlots are retained for farmland. The advantage to the waiver of the block length is that there is no particular

need to extend the road through the farm land. It is anticipated that the large outlots will be replatted in the future, at which time the cross-streets will be provided as needed. In rural subdivisions on AG lots, it is relatively common to waive the block length because of that kind of circumstance.

Bayer is in a dilemma with respect to the water issue. The Health Dept. has determined that there is adequate supply so he will support their recommendation. Bayer suggested that the staff provide the Planning Commission with a separate presentation in the future on groundwater in the county.

Motion for conditional approval carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**COUNTY FINAL PLAT NO. 00012**  
**BENTZINGER'S PLEASANT ACRES**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 14TH STREET AND WITTSTRUCK ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Conditional approval.

This item was removed from the Consent Agenda due to letters received in opposition.

Rick Houck of Planning staff submitted a letter in opposition from Janice Wittstruck of Roca indicating that she and her neighbors were not notified of the previous hearings on the preliminary plat and community plan. They are concerned about additional tax on land in the area and the stress this will put upon the farmers due to the drought and low grain prices.

Houck also submitted a letter from Emery and Charlene Brandt requesting that this application have separate public hearing because they did not receive notification of the previous hearing on the preliminary plat and community unit plan.

Proponents

1. **Lyle Loth of ESP Engineers** appeared on behalf of **Bentzingers**. The opposition has caught them by surprise. The developer assumed that notification had been properly done when the preliminary plat and community unit plan were processed. Both were approved earlier this year. With that approval, the Bentzingers had the opportunity, or perhaps the requirement, to proceed with the improvements, road grading, street signs and various things needed prior to submitting application for final plat. The roads are built and they have put in all the necessary improvements. They have been almost a year in this process and have experienced considerable expense and would like to sell their lots. He would be happy to meet with these neighbors to address their concerns; however, he is not sure how successful they might be or what they could do. They have a fixed number of lots and thus a fixed alignment based on the approved preliminary plat and community unit plan.

Opposition

1. **Emery Brandt**, 15605 S.W. 14<sup>th</sup>, the Personal Representative for the Lester Brandt Estate, owner of 207 acres located south of the subject property, testified in opposition. He is one of six brothers trying to keep a family farm. They do not need increased property taxes. In order to make payments and pay taxes, they may need to put in pivot irrigation or start raising hogs. Brandt wants to know what has changed since the zoning request was denied in 1997. Why were the neighbors not notified of this change? Land is being developed one mile west and one mile south with paved roads on two sides and only one lot has been sold in the last 2 years. This land is still shown as AG in the Comprehensive Plan. The existing zoning is appropriate and reasonable. There is no need for a community unit plan. 41.48 acres which was requested for rezoning in 1997 has now turned into 137.9 acres. Nearby property owners will have to request rezoning because they cannot afford to keep it as farm land. The neighbors do not know anything about the water quality or quantity on the subject property.

Brandt noted that Bentzinger is responsible for maintenance of the outlot. Brandt has pictures of substandard maintenance on property that Bentzinger has developed. In 1997, the majority of the community did not want this development. It is a farming community.

Brandt listed 7 property owners who are opposed to this final plat, which is the majority of the people in this area.

Bayer asked staff to respond to the notification requirements. Rick Houck of Planning staff stated that the Planning Department is required to notify property owners within one mile of the boundaries of the application. In the last part of last year, when the preliminary plat and community unit plan were advertised, the Planning Department had a new notification person that did not fully understand the area of notification and only the property owners

living within 1/4 mile of the boundaries of this application were notified, as opposed to one mile. Mike DeKalb of Planning staff observed that receipt of the notification is not mandatory. The property was posted and the application was legally advertised in the newspaper and appeared on the Planning Commission agenda.

Dave Johnson of the County Attorney's office has not given the notification issue full review. He did speak with the applicant in this case and asked him what he would have done if all mailings were sent out properly and there was great opposition to the preliminary plat and community unit plan. The applicant indicated that he would have met with the individuals. Johnson observed that this application will also be heard by the County Board. He suggested that the applicant meet with the property owners while this application is on its way to County Board. At this point, if this were approved or denied, the County Board would still have the option to request that it be delayed until there was a meeting with the neighbors. In fact, he suggested that the Planning Commission could approve the application upon condition that there would be a meeting with the interested parties.

There is no notification to property owners beyond the Planning Commission meeting.

Hunter presumed that most of the property owners are probably within the 1/4 mile radius. DeKalb advised that there are quite a few smaller parcels once you get further out.

Response by the Applicant

Lyle Loth clarified that this is not a change of zone. It will remain AG zoning with a community unit plan. He does not believe the surrounding farms will be impacted by tax consequences.

Loth would agree to meet with the neighbors prior to hearing before the County Board.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION**

September 6, 2000

Schwinn moved approval, with conditions, seconded by Duvall.

The question was asked whether a condition could be added to require a meeting with the neighbors. Johnson suggested that the Planning Commission cannot add it as a condition of the plat, but the Commission's approval could be conditioned upon the fact that they agree to meet with the interested parties.

Schwinn pointed out that this is not a change of zone. It is simply a case of the owner making a decision of what to do with the property and his neighbors do not want him to do



that. He sees no environmental, safety or health issues. He does not see the need to meet with the neighbors.

Newman did get a phone call and she will vote in opposition strictly because the process was not followed as it should be. She is happy if the applicant meets with the property owners but this is her protest vote for process.

Carlson believes the meeting with the neighbors might be beneficial for communication purposes so that they feel like they have been part of the process.

Bayer does not see the need to make a meeting with the neighbors a condition because the applicant said he would do it.

Motion for conditional approval carried 7-1: Krieser, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Newman voting 'no'; Steward absent.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-58**  
**TO AMEND CHAPTER 4 (TRANSPORTATION) OF THE**  
**1994 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN**  
**TO ADOPT THE BOULEVARD CONCEPT FOR PUBLIC**  
**WAY CORRIDORS.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor Schwinn, Carlson and Bayer; Steward absent.

Nicole Fleck-Tooze of the Planning Department submitted additional information including a letter from a resident and a memo from Planning Department outlining revisions to the proposal.

The letter from Steven J. Bors, 6800 Rebel Drive, indicates that he is on 70<sup>th</sup> Street between Yankee Hill and Rokeby Road and has concerns about traffic noise, etc.

The proposed revisions to the proposal are intended to respond to the concerns raised by the Home Builders, Board of Realtors and LIBA, who met on August 25<sup>th</sup>. The proposed amendments are also in response to some comments by the Commissioners at the previous public hearing and issues raised at the August City-County Common meeting.

Tooze requested that the public hearing be held over to September 20<sup>th</sup>. The staff team just met with the Home Builders on August 25<sup>th</sup> and there are some significant revisions being proposed that have not been reviewed. The most significant change is revising what was previously shown as Figure 32A. The area of application is revised to generally correspond to the Future Urban Area boundary rather than the three-mile jurisdiction. The

text revisions reflect revisions to the map and clarify that the application of these public way corridors would be anticipated to expand in the future, although it would be done through later amendments and evaluated at that time in relation to Lincoln's future growth. Other text changes include provision for flexibility in the application of this concept relative to the grid network and responding to natural and topographic features. There is specific reference to respond to variations in size of developing areas adjacent to the corridor. There is also a commitment to adopt the proposed ordinance and design standard revisions recommended by the study.

Replacement pages for the roadway and landscape costs were also submitted, which more accurately reflect the costs based upon more recent projects.

Carlson sought confirmation that the proposed amendment would tie the Public Way Corridor concept to the future service area as it is delineated right now. Tooze concurred. If, in the future, that urban area boundary is revised to add more areas, we would anticipate proposing and evaluating amendments to the Public Way Corridor concept so that they would apply to any areas that are within the future urban area boundary. However, this would not be automatic. Tooze further explained that application within the entire three-mile jurisdiction was simply too broad and needed to be related more to where we anticipate having growth. This amendment to the proposal intends to reflect that concern. There may be some details or specific considerations for some of these other areas that need to be considered as we apply this concept.

Hunter wonders how this dialog came to the point of eliminating the three mile area because she has talked to a lot of people the last couple weeks and the one general opinion seems to be that it was such a tremendous impact everywhere, but it looks like it has gone to be completely outside. She is not sure this addresses the problems in getting in and out of the city. The compaction is inside the city limits and when you get out into the rural area it is a lot less. This seems like an awfully small plan compared to what we saw a month ago. Tooze explained that the revised area would extend out generally from the existing city limits, running inside the future urban area boundary. The intention is for the corridors to extend from present day city limits to the future urban area boundary. This proposal is intended to look at the fringe areas to get out in advance of development to try to preserve these corridors. It is not intended to address existing areas or anything that is already in process.

Hunter asked whether there were not corridors that were also running east/west. Tooze clarified that there are east/west corridors. The focus is on the areas that are today included within our future urban area boundary, largely to the north and to the south.

Carlson suggested that reducing the affected area also reduces our capacity to "get out in front" at this time. Tooze agreed that to some degree that is true, but this is an attempt to reach a consensus with the concerns that have been raised about it being too broad of

an application. The staff is attempting to reach a middle ground. It seems logical to relate it to the urban area boundary. It would be an incremental change.

Carlson believes it is a process of weighting the impact today as a potential for lessening the impact in the future.

Bayer noted that the city is beginning to study Stevens Creek. He is guessing that proponents of Public Way Corridors are going to be actively involved in mapping them out in a potential Stevens Creek plan to the east and we will see those at that time. Tooze stated that if Stevens Creek was included in Future Urban Area Boundary, the Commission can anticipate a proposal for Public Way Corridors.

Schwinn indicated that he is having a hard time understanding what we are trying to do. Stevens Creek is a good example--so we expand our urban limits into Stevens Creek--we would at that time designate every section road as being one of these major boulevards or would we designate certain roads that we perceive such as in a Subarea Plan? Tooze responded that in general, it is proposed to go to the mile line section roadways, but it does not necessarily mean that would be the case in every situation.

Schwinn referred to So. 70th between Pioneers and Old Cheney--that is a 100' right-of-way and personally, he believes it is very good looking. We have everything in there we would ever want. Why should it be 40' wider? Tooze explained that the concept of having a wider corridor is not only to accommodate traffic needs, and not just today. The wider corridor includes future turn lanes up to two left turn lanes and an additional right hand turn lane and that contributes to expansion of the corridor; it is also anticipated to accommodate a trail where needed and the landscape streetscape we would like to have in every corridor. It provides for pedestrian movement, has green and can begin to provide some kind of link to neighborhoods rather than separating them.

Schwinn does not understand why we would want to make the whole mile section 140' when it would only be necessary at the intersection of Old Cheney and Pioneers. Jim Visger of the Public Works Department suggested that you always run the risk of not having enough space for future infrastructure. The critical thing is that we are trying to accomplish a streetscape which means you are going to have objects above the ground, i.e. trees. They have to be placed such that there are not sight obstructions. Given a roadway that is residential in nature entering a 45 mph section, we need 570' of triangular space to see the cars coming in order to have safe conditions for left turns. It's not just all in the physical width of the concrete. It's how you make it safe and provide for a softened streetscape. We do need to have the widened sections of right-of-way at the intersection.

Schwinn made a motion to continue public hearing and administrative action on September 20, 2000, seconded by Duvall and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor,

Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

Opposition

**1. Mark Hunzeker** appeared on behalf of **Home Builders Association and Lincoln Board of Realtors** in opposition. He is unaware of anyplace else anywhere that has this kind of requirement for right-of-way for arterial streets. 140' is an excessive amount of right-of-way. It is unnecessary for any of the streets on the Long Range Transportation Plan. He suggested that investigation be made as to whether this exists anywhere else in the world. The costs of implementing this plan have been inaccurately reflected, including acquisition of right-of-way, implementation of landscape plans and maintenance of those plans, particularly for the Public Works Department budget. His clients are concerned about being far behind in street construction today and the additional burdens that this would place on plans for street construction in the future. Just the elimination of the whole county from this plan, aside from the future urban area, is a big step in the right direction, but it needs to be more focused and limited to areas that we know need more right-of-way.

Staff questions

Tooze pointed out that the Long Range Transportation Plan on today's agenda has a very short time frame and has a need to move forward. The Public Way Corridor proposal is part of that and it may be necessary to address this proposal in that comprehensive plan amendment. It may be necessary to delete the Public Way Corridor proposal from the LRTP at this time so that the LRTP can move forward on its own.

Hunter is not sure 140' is the magic number. Do we need bike paths and running paths next to a major corridor, or is that something that should go somewhere else? She does not know how this number was arrived at. She understands that an expansion makes sense, but she wonders if it's an overkill at 140'. Maybe there is something in between those numbers that addresses the whole issue. She believes there is a safety issue with the bike paths next to major thoroughfares. The number needs to address the development community concerns and the long term concerns of the growth of Lincoln. She wants to make it as big as it needs to be. She believes this process was an effort to not have people upset about widening of streets.

Hunter also suggested that it really almost always seems like we have the cart before the horse in terms of perimeter roadways and bypasses. It almost feels like we keep trying to put this map down on something where we don't know where the boundary is to begin with. The long term plan of this whole process has got to get a little closer to being what the total picture looks like in the end instead of doing it piecemeal.

Carlson assumes that the 140' automatically includes flexibility where amenities are

provided for elsewhere on the site. Tooze advised that the concept is intended to be flexible in this way, not only relative to right-of-way or adjacent development. Carlson suggested that 140' represents a potential maximum. Tooze responded, stating that the 140' is intended to be the corridor width but the entire 140' wouldn't all be the street. It can be made up of other amenities.

Carlson wondered whether there are any other natural boundaries to be considered. Is the staff going to come forward with a finished product or is there a way in the future to amend it? Tooze stated that the staff certainly anticipates that it can be amended in the future. If the Planning Commission would like to see other alternatives, a different map could be provided if deemed necessary.

Lynn Johnson, Director of Parks and Recreation suggested that the concept is tied to transportation planning. As we move out with subarea plans, etc., we need to identify those roadways that we anticipate being the major transportation carriers. This is going to be an evolving plan over time. When we started on this project, we identified all the elements that could happen within one of these areas. The Bicycle/Pedestrian Advisory Committee does not want trails on major arterial streets. That is not always going to work. We have got to get over the ridgelines. We are interested in making that happen within the subdivisions, but, if not, it needs to happen along these roads. Some of this is horticulture and transportation engineering based, and there is a roadway width we have to plan for. Johnson agreed to bring back quantifiable numbers.

Carlson is interested in seeing what the alternatives are and the pros and cons on those various maps and areas.

Johnson offered to do a workshop for the Planning Commission to better understand the proposal.

Taylor thought 140' was well thought out with enough flexibility. He believes that having that amount of corridor space as an easement, so to speak, by which the transportation plan could follow in an orderly fashion is very good. He thinks the proposal is considerate of the flow of traffic and how it would generate 10-20 years out. Johnson indicated that there was a lot of staff discussion about what that number would be and they are trying to build the flexibility into this. We may need more information and more dialog so that we can really understand what the planners are attempting to do.

Newman would like to see some sort of financial impact statement of what it costs to relocate businesses, such as on East "O", or the impact on their businesses where we didn't have the 140' right-of-way in the first place and then taking drastic measures after the fact. What about redevelopment costs?

Hunter believes this is a huge step as far as future planning of Lincoln. She requested that

the staff bring as many options back as possible because she wants to take this step confidently.

Taylor concurred with Newman and Hunter. He supports what has been done so far wholeheartedly. He would rather do this than fix it as we go along.

Bayer is concerned about sending the staff in so many different directions. He asked the staff to provide a timeline of when this needs to be accomplished and where it needs to meet up with the LRTP. The Commission has to make a decision and move it forward. The staff needs to let the Commission know the parameters as far as timing. He likes the idea about having a workshop.

Jim Visger stated that they would propose to bring this forward by case study by presenting case study locations we have now--how things would have been and showing what our minimums are and what the desirables are.

There was no further public testimony. This application will have continued public hearing and administrative action on September 20, 2000.

**COUNTY CHANGE OF ZONE NO. 202**

**and**

**CHANGE OF ZONE NO. 3280**

**TEXT AMENDMENTS TO THE COUNTY**

**ZONING RESOLUTION AND THE CITY**

**ZONING ORDINANCE TO DEFINE AND**

**ALLOW SEXUALLY ORIENTED LIVE ENTERTAINMENT**

**ESTABLISHMENTS AS A PERMITTED SPECIAL USE**

**IN CERTAIN ZONING DISTRICTS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval

Proponents

**1. Kathleen Sellman, Director of Planning**, presented the application. The City Council and County Board have requested zoning amendments to regulate the location of sexually oriented live entertainment establishments for the purpose of preventing secondary and negative effects. The proposed amendments are separate for the city and county.

The County Zoning Resolution regulates those areas which are unincorporated and located outside of the three-mile zoned area. Those changes which would affect the City of Lincoln land use regulations would apply within the incorporated limits and within the three-mile zoned area.

There is a three-pronged approach for each amendment that would cover categories of definitions to assist in clarifying what is to be regulated; a proposal to list the specific use within zone district categories; and then standards under a special permit process to govern sexually oriented live entertainment establishments. This is a land use issue. The goal of the City Council and County Board is to bring the land use regulations up to the standard of current practice with regard to regulating sexually oriented live entertainment establishments.

The definitions which are before the Commission are that of sexually oriented live entertainment establishments, specific anatomical areas and specific sexual activities. The goal of the City Council and County Board is to have regulations which are as similar as they can be so that as future annexation may occur, the regulatory process is as consistent in that change-over of jurisdiction as it can be.

The special permit process has been selected as the method for evaluating the proposed uses and that brings before the Planning Commission a proposal for this type of business.

For the county permits, the Lancaster Board makes the final decision. With special permits in the city or three-mile area, the Planning Commission will make the final decision with an appeal process to the City Council.

Bayer wondered why we have to allow this at all. Sellman advised that the most recent Supreme Court decisions on these businesses have indicated that a complete prohibition on such businesses may be an unreasonable regulation and that alternative means of expression must be available within a jurisdiction. If a business can meet the requirements of the special permit, they would be allowed in the industrial zoned districts of the unincorporated county and in the city and in the three-mile zoned area in the H-1, H-2, H-3 and H-4 Highway Commercial districts, and in the I-1, I-2 and I-3 Industrial districts. There is a proposed requirement that there would be a separation of 1500 feet of any two such businesses. In the county there would be a separation requirement from such a business and specified uses which have been identified as sensitive, i.e. residential, schools, playgrounds. Within the city, there is an additional separation

requirement proposed from residential zoned districts and from agricultural and AGR zoning.

Hunter stated that she is opposed to any of these types of things because whoever's business they are next to will suffer just from the environment that is created. What prohibits us from limiting the number of permits that can be issued? Why can't we limit them because there are a lot of industrial areas in Lincoln and we could end up having one in every industrial area in the city? Sellman explained that to be a question that might more appropriately be answered by the City or County Attorney, but from the planning practice side of things, our interpretation of the court decisions has been that the courts, while they have said you cannot prohibit, you have to provide some opportunity. The courts have been less than specific about that number and it has been left to the marketplace to see how that develops.

**2. Rick Peo, City Law Department**, stated that he has not done a lot of research on the number limitation. New York City did actually limit the number but it would take a different type of regulation, including zoning and licensing. The zoning regulations is not the appropriate place to allow "x" number of uses. It's a land use issue. The licensing procedure to limit the numbers would have to go under the police power of the city and be under a different type of ordinance. The staff has not had direction from the City Council to come forward with that type of situation. The proposal is to allow the uses in certain districts with separation requirements. The separation requirements were a deliberate decision as opposed to clustering.

**3. Cindy Williams**, representing **West A Neighborhood Association** and mother of four girls, testified in support. A vote for this change would prohibit these adult establishments from locating near our sports complexes, ball fields, churches, sand volleyball courts, hospitals, mental institutions, schools and our homes which are three blocks or less from Cheetahs. She urged the Planning Commission to act promptly on this ordinance and to change the zoning, not just for the West "A" neighborhood but for the entire Lincoln community.

**3. Deb Vocasek**, 21 year resident in the West A neighborhood, testified in support. Why do we have to allow these establishments in the City? Why doesn't Omaha have any? She urged that this text amendment be approved. These uses are not appropriate in residential areas with our children, schools and day cares.

**4. Joyce Champoux, President of Yankee Hill Neighborhood Association**, testified in support. They are opposed to any of these type of establishments in any neighborhood.

There was no testimony in opposition.



Bayer inquired as to what is allowed today. Sellman advised that the existing businesses, if lawfully established, would continue to exist. The opportunity now exists for such businesses to locate in the B-4 zoned district. Bayer noted that this discussion is about land use. Is there any limitation on where someone could come in and start this entertainment? Sellman advised that part of the difficulty in regulating these at this time is that they are not defined so they are coming in under an umbrella which is much more broad. By failing to keep up with current practice and land use by providing a definition we are providing in many ways an open door. Once we define them as set forth, and require that those businesses meeting the definitions must have the special permit, then we are limiting greatly the ability of such a business to be established in the future.

Peo advised that under the existing ordinance, in the commercial districts we do not have a definition to control their location. It is clear that they can be located in the B-4 and I-3. If they fall within the existing definitions they might be allowed in some of the other districts. They are not allowed in the residential districts. This text would provide more definition and be more restrictive than the existing code.

Bayer referred to H-4--isn't that like 27<sup>th</sup> & the Interstate? He thought H-4 was only in certain places like entries to the city. Kathleen clarified that to be H-3. Bayer wondered about eliminating the H districts from this legislation. Sellman advised that the Commission does have that opportunity.

Hunter inquired as to why we aren't creating a specific zone rather than using any of our existing zones for this type of use, such as outside the three-mile limit, etc. Sellman agreed that there are a variety of ways to do it. In bringing this legislation forward, she has tried to use guidance from other communities and Supreme Court decisions. This is in terms of simplicity of administration--it is easy to explain to someone as to what is allowed and the requirements. If you create a zone district that is so complicated that no one can meet the requirements, then it is our interpretation that that does not meet the intent of rezoning a district. We can't be so restrictive that no one can do it and we can't be unreasonably restrictive.

Peo added that there are limitations because of First Amendment rights and privileges. There cannot be a total prohibition. You have to leave enough available alternatives that one can find a place to put his business. You cannot prohibit it by application of the facts.

Hunter believes these are what you call "destination" businesses. People will find them regardless of where they are located. Wouldn't it be easier to say it cannot be located in any zoning except for something specific to eliminate the corridors to the city, such as nowhere except I-1? Sellman advised that the approach selected by the City Council and County Board was to use existing zone districts rather than create a new "red-light" type of district. Hunter believes that I-1 is probably the most discreet area where that could be located. Could we narrow it down to that point? Sellman suggested that to be a

prerogative that the Planning Commission has in making its recommendation.

Public hearing was closed.

**COUNTY CHANGE OF ZONE NO. 202**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Schwinn moved approval of the staff recommendation, seconded by Newman and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**CHANGE OF ZONE NO. 3280**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Newman moved approval of the staff recommendation, seconded by Schwinn.

Hunter asked Sellman to recite the type and level of businesses allowed in those zoning districts. Sellman reviewed the permitted uses, conditional uses and special permitted uses in each district.

Sellman also distributed a map showing the locations of the districts being proposed. Carlson pointed out that only the darkest colored areas on the map would be possible locations. Sellman concurred, stating that there was an analysis done of the variety of options so there are three different color tones shown on this map. Only the intensely colored areas are those which would be available under this proposal for the sexually oriented live entertainment establishments.

Hunter moved to amend to restrict approval to only the H-4 district, and that no such business may be located anywhere on a main arterial such as "O" Street and 27<sup>th</sup> Street, seconded by Taylor.

Hunter is leaning on the fact that she read the responsibilities and requirements that came along with this appointment to the Planning Commission and the Commissioners are to look at protecting any type of blight that may approach the City. She understands that we have to provide a location but it does not have to be at the focal point. She believes this type of use will be detrimental to surrounding businesses and uses. We cannot restrict the use in its entirety because of freedom of speech, etc., but she believes the Planning Commission has the ability to restrict where it is located because it is a destination business, and our restriction should be to the point where it will not have an impact upon businesses and residents of Lincoln.

Carlson stated that he has always been a strong supporter of strengthening neighborhoods, but he is concerned about developing legislation where you have to meet

the test of reasonableness. In this instance he is going to rely on the expertise of staff and the legal department in generating the restrictions. It doesn't do any good to come up with legislation which wastes time and money and gets shot down by the courts.

Taylor stated that he seconded the motion because he believes it should be noted that there is a great concern. We are fighting against this type of entertainment which doesn't do our city any good. He wants it made public that some of the Commissioners are strongly against this activity. It is very unreasonable that this can permeate our society. It is a disgrace.

Hunter is a strong believer that if you can't say no now, then you can't say no later. We have the right to say no. We do not have the right to prohibit but we do have the right to designate. It is a destination business. Those who frequent those locations will seek them out and travel to wherever they are.

Carlson agrees, but applauds the efforts that have been made to this point. We talk about reasonableness in the legal sense, not necessarily in the citizen sense. We can vote our conscience, but he is more interested in listening to the legal definition of reasonableness.

Bayer will support the amendment. He wants to limit it as much as he can. He has three children at UNL and these uses could be located there. He feels sorry for Cornhusker Highway.

Newman suggested that limiting to H-4 and not on an arterial street wipes them out completely. Peo explained that one of the things the staff has come forward with is an ordinance that allows sufficient opportunities because we were picking a mixture of districts. We have not done an analysis of what's left when prohibiting certain districts. We don't have enough factual basis to say that is a reasonable selection. There is a tendency to argue reasonableness because B-4 is still allowed. B-4 is not before the Commission. We can't do anything to it. If the Commission wants to pick two areas on the fringe, that is the Commission's call. Hunter means it could not be located on "O" Street or on Cornhusker Highway.

Hunter withdrew her motion to amend, agreed by Taylor, who had seconded the motion to amend.

Hunter moved to amend that this change of zone and use is restricted to H-4 and may not be facing a main arterial street, seconded by Taylor. Motion to amend failed 4-4: Krieser, Hunter, Taylor and Bayer voting 'yes'; Newman, Duvall, Schwinn and Carlson voting 'no'.

Main motion to approve the Planning staff recommendation carried 7-1: Krieser, Newman, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Hunter voting 'no'; Steward

absent.

**CHANGE OF ZONE NO. 3275,**  
**A TEXT AMENDMENT TO THE LINCOLN**  
**MUNICIPAL CODE TO NOT LIMIT OFFICES TO ONLY**  
**PROFESSIONAL SERVICES PROVIDED BY PHYSICIANS, SURGEONS, ETC.**

**and**

**CHANGE OF ZONE NO. 3259**  
**FROM R-8 RESIDENTIAL TO O-1 OFFICE**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SOUTH 14TH & G STREETS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Approval of the text amendment and denial of the change of zone.

The Clerk announced that the applicant has requested deferral, with continued public hearing and administrative action on 9/20/00, in order for the Commission to hear an associated special permit at the same time.

Duvall moved to defer, with continued public hearing and administrative action scheduled for September 20, 2000, seconded by Taylor and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There was no public testimony.

**CHANGE OF ZONE NO. 3276**  
**A TEXT AMENDMENT TO CHAPTER 27.33**  
**OF THE LINCOLN MUNICIPAL CODE**  
**TO ADD SCREENING REQUIREMENTS TO**  
**SOME USES IN THE B-3 COMMERCIAL DISTRICT.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval.

Proponents

**1. John Bradley, Assistant Director of Planning**, submitted an amendment to section 27.33.030 adding language such that the locational or screening requirements shall not apply when said residential use or district is across a public street, but shall apply if said residential use or district is across an alley or private drive.

Bradley explained that the Problem Resolution Team (PRT) has requested this amendment. The PRT was established under Mayor Johanns and it is staffed by representatives of 9 city departments. It is a team working closely with the Police Department and the Urban Development Department to attempt to address particular problems within neighborhoods. Some of these problems might be addressed partially by changes to design standards, locational requirements or permitted uses, etc. The staff has been meeting with the team since early this year, presented different proposals and at this time proposes this minor amendment to require the buffering of certain uses in the B-3 district, which is a district that legitimized existing old neighborhood shopping districts, such as Uni Place, Havelock, South Street, areas which were already in place when we started putting zoning in place. They typically have no building setbacks, etc. As a result of the age of these districts, some of the buildings have been removed. Used car lots, appliance, and heating and air conditioning repair shops have now moved in so they are no longer strictly neighborhood oriented businesses. These were beginning to cause problems in some particular instances in the community.

The specific proposal is to remove, as outright permitted uses, service stations, auto repair shops, and appliance sales and repair facilities, and moving them to conditional uses, and requiring them to be separated by a certain distance if locating new in an area (100' in this case); require them to fence the uses from abutting residential uses; and give three years to existing service stations, automobile sales, and repair facilities that are located within 100' of residential use or districts to bring those into compliance. In the future you would not be able to locate any of these new uses again within 100'.

Carlson noted that if the setbacks are minimal or nonexistent in B-3, then some of the fencing would go straight to the sidewalk.

**2. Wynn Hjermstad of Urban Development** testified on behalf of the PRT to answer any questions.

**3. Mike Morosin, past president of Malone Neighborhood Association**, testified in support. This may bring a lot of the car lots and businesses into conformance. This is one step forward to help the older neighborhoods in controlling some of the things that go on.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** September 6, 2000

Taylor moved approval with the proposed revisions submitted by Bradley today, seconded by Hunter and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**CHANGE OF ZONE NO. 3277**  
**FROM R-2 RESIDENTIAL TO O-2 SUBURBAN OFFICE**  
**ON PROPERTY GENERALLY LOCATED AT**  
**NORTH 70TH AND STONEY RIDGE ROAD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Deferral until alternative uses for the site have been discussed.

Jennifer Dam of Planning staff submitted two letters in support from neighbors in the area who would like to see doctor offices.

Dam explained that the staff report was not yet issued because the applicant had called and requested deferral prior to the date that the staff report went out; however, the public hearing had already been advertised. She has a meeting scheduled with the applicant on Sept. 25<sup>th</sup>, which is too late for October 4th Planning Commission agenda, so she suggested the application be deferred until October 18<sup>th</sup>.

There was no other public testimony.

Duvall moved to place the application on pending, seconded by Krieser and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**SPECIAL PERMIT NO. 1861**  
**FOR A PERSONAL WIRELESS FACILITY**  
**ON PROPERTY GENERALLY LOCATED**  
**AT NORTH 27TH STREET AND NORTH HILL ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer;  
Steward absent.

Planning staff recommendation: Conditional approval.

Jennifer Dam of Planning staff submitted a memorandum changing the staff recommendation from deferral to conditional approval based upon the letter from the property owner agreeing to move the tower from the front yard setback to an area behind the Slumberland building which would be less obtrusive.

Proponents

1. **Jill Bazzell, of Qwest Wireless**, presented the application explaining that originally Slumberland had a flag pole in the parking lot and Qwest approached Slumberland about replacing the flag pole with their stealth tower. The property owner suggested that they move the facility to the west end of Slumberland which is right off 27<sup>th</sup>, replacing a light pole. After working with staff, the elevation difference is about 10-12' making the antenna more visible. Staff recommended moving the tower into the parking lot or behind the building. The property owner did not want the tower in front of the store but did agree to let them go behind the building in a grassy area. They will meet all of the conditions in the staff report.

Bayer thanked the applicant for voluntarily submitting a map of their facility locations.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Duvall moved approval, with conditions, seconded by Krieser and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 1862**  
**FOR A WIRELESS FACILITY**  
**ON PROPERTY GENERALLY LOCATED AT**  
**SOUTH 56TH STREET AND HIGHWAY 2.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer;  
Steward absent.

Planning staff recommendation: Deferral

Jennifer Dam of Planning staff submitted a letter from the property owner disagreeing to movement of tower to another location. Staff continues to recommend deferral in hopes that the applicant will continue to work with the property owner. Perhaps they misunderstood the proposed location and might be amenable to a location behind the building.

Proponents

**1. Jill Bazzell of Qwest Wireless** presented the application. They have looked at other areas in the vicinity of their search ring and they selected the location behind the Misty's building on Highway 2. If the property owner does not want them to move the site, they want it known that this site has been agreed upon with the property owner. The staff is proposing a location less than 100' from the applicant's desirable site. The applicant does not see how that would change the visibility too much. There is no other building. The only thing that would be hidden more would be the equipment box, but it is landscaped anyway.

**2. Corby Dill of Qwest Wireless** noted that the area the staff would like the tower located is next to a terrace near the parking lot for K-Mart. It is a minimal move and the only thing that would be concealed from Hwy 2 or 56<sup>th</sup> would be the ground equipment which will be landscaped anyway. The area of the box is a dumpster pad now that is already fenced in. From an engineering point of view, either location is probably acceptable.

Dill also pointed out that one of the conditions of approval is to extend the height by another 15' to allow for collocation. They would have no problem doing that, but the pole gets taller and they cannot use the unipak design. This will require them to strap their antennas and remote units to the pole so it would not be quite as sleek a design.

There was no testimony in opposition.



Duvall asked whether Qwest is agreeable to the staff's preferred location. Bazzell pointed out that they do have a letter from the property owner indicating that they do not want the site to be moved, but she is not sure how comfortable she would feel with conditional approval on an either/or situation. Rick Peo, City Attorney, does not think it is a good idea to approve an either/or site. He suggested that a deferral might be more appropriate to see if they can get approval for the alternate site. If the Commission approves an either/or location, there is no motivation to get the "or". Deferral would be a better approach. It would not be appropriate to approve the alternate site without the property owner's agreement.

Dam explained that staff is recommending that the proposed site be moved to the northeast. Qwest believes that the property owner misunderstood the staff suggestion. Staff is still recommending that there would be less impact if it were moved to the northeast. Qwest is requesting that the Commission vote on the location they have requested.

Bayer clarified that the Planning Department wants to defer. If the Commission elects not to defer, then there are conditions in the staff report for that location. The site being proposed is acceptable to the applicant and the property owner.

Hunter noted that the staff wants to locate the tower closer to the lights in the K-Mart parking lot and it would blend with the existing light poles.

#### **Response by the Applicant**

The attorney for Qwest inquired under what standards of evaluation this is being deferred. Is it visual or location? Dam suggested that it would be the visual impact on the Highway 2 corridor.

Schwinn pointed out that the Commission does have the ability to go ahead and pass this with the conditions as stated in the staff report. He asked the applicant whether the conditions of approval are acceptable. Bazzell indicated that they are acceptable; however, she wanted the Commission to be aware that the condition to extend the tower for collocation would change the look. Qwest doesn't care either way. Rick Peo, City Attorney, clarified that the ordinance requires the pole to be designed for collocation unless it is not feasible, so he does not believe the change of look would make it infeasible.

Hunter moved to defer, seconded by Newman. Hunter believes that Hwy 2 is a very visible area and keeping these types of locations as far away from the visibility path is extremely important. Blending it in with other types of tall structures in that area would be more acceptable.

Bayer will vote against the motion because he doesn't think that amount of distance is going to make that much difference. Schwinn agreed.

Motion to defer failed 3-5: Newman, Hunter and Carlson voting 'yes'; Krieser, Duvall, Taylor, Schwinn and Bayer voting 'no'; Steward absent.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Schwinn moved approval, with conditions, seconded by Duvall and carried 5-3: Krieser, Duvall, Taylor, Schwinn and Bayer voting 'yes'; Newman, Hunter and Carlson voting 'no'; Steward absent.

Note: This is final action unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 1866,  
FOR A WIRELESS FACILITY  
ON PROPERTY GENERALLY LOCATED  
AT LEIGHTON AVENUE AND NO. 48TH STREET.  
PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Deferral

Proponents

**1. Jill Bazzell of Qwest Wireless** agreed to a two week deferral to provide the additional information being requested by staff.

Schwinn moved to defer, with continued public hearing and administrative action scheduled for September 20, 2000, seconded by Krieser and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There was no other public testimony.

**SPECIAL PERMIT NO. 1867**  
**FOR A PARKING LOT**  
**ON PROPERTY GENERALLY LOCATED**  
**AT 1228/1230 "H" STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer;  
Steward absent.

Planning staff recommendation: Denial

Mike DeKalb of Planning staff submitted comments from the Parks Department regarding plantings.

Proponents

1. **J.L. McMaster of McMaster Enterprise**, the applicant, stated that he is seeking a special permit for a parking lot at 1230 "H" Street. They have been working on a plan for this particular block for 20-30 years, but they have not had the finances to do future planning. There has been good response from the neighborhood for more parking spaces. This building has nice tenants and good interior decorating but the outside is deteriorating rapidly. It is not a landmark building. If the building is removed it would provide for a better safety situation to the neighborhood and offer parking to the neighbors, both residents and commercial. They have received approval from Blue Cross Blue Shield, Century House, and the Johnson attorneys for this parking lot until they can financially complete an apartment complex. He believes this would be a buffer for the area. This would be a great asset; it does not add any problems to traffic, drainage or maintenance of the area. McMaster is hopeful that this will be temporary until they get to the next step financially.

There was no testimony in opposition.

Carlson noted that the Capitol Environs Commission is recommending denial. Ed Zimmer of the Planning Department advised that the Capital Environs Commission concerns were not the ultimate use as parking in that that fits in the broader idea of keeping parking off the capitol square, but rather the design that was offered which does not meet landscape standards or layout standards and would extend two existing small parcels. They wanted to see a drawing that met the standards prior to making a recommendation. They felt they should deny the plan as offered in that the three narrow separate lots did not meet the layout or landscape requirements and would not enhance the environs, in their view.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Newman moved to deny, seconded by Taylor. Newman does not believe it is an appropriate use in R-8.

Carlson believes that there are some options that still exist that could be discussed with the Capitol Environs Commission. He encouraged the applicant to make the modifications being requested.

Schwinn will vote against denial because this is all part of a grander plan. He did not drive by and look at the house they would be tearing down, but it looks like the parking lot is just a transitional use as they move towards building an apartment complex. He does not fault the owner for trying to make some income off the property in a transitional use.

Hunter noted that this area of town surrounds the capitol building very closely. She would support a full plan of the future proposal. If this were the first phase it might be more reasonable, but she cannot vote for it just for the sake of putting in a parking lot.

Bayer will vote against the motion because he believes the conditions force compliance with the design standards.

Motion to deny failed 4-4: Newman, Hunter, Taylor and Carlson voting 'yes'; Krieser, Duvall, Schwinn and Bayer voting 'no'; Steward absent.

This application is held over for administrative action on September 20, 2000. Public hearing has been closed.

**FINAL PLAT NO. 00023,**  
**THE RIDGE 27TH ADDITION,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SWITCHBACK ROAD AND RIDGE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval.

Proponents

**1. Mike Rierden** appeared on behalf of the applicants. They have been building fine homes in Lincoln for 20-25 years. This began as an administrative amendment to a plat making two lots from a rather large lot. There was an objection by a property owner in the

area and it was determined by staff that there should be a public hearing.

Rierden submitted a handout showing the original approved preliminary plat for this area, the lot as it looks today and the proposed final plat which splits the one lot into two lots.

The frontage is basically the same as originally approved. Rierden also submitted a photograph of the type of home they plan to build on these two lots, which will be in the \$700,000 range and in excess of the existing covenants. These homes will be 5,000 sq. ft. He does not know what the basis of the objection was. This is in accordance with the land subdivision ordinance and the owners have signed the subdivision agreement and agree to all conditions. They are simply trying to take the lot back to what was originally platted in the 1980's.

There was no testimony in opposition.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** September 6, 2000

Schwinn moved approval, seconded by Taylor and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-45**  
**TO AMEND THE COMPREHENSIVE PLAN TO**  
**INCLUDE THE "GREATER ARNOLD HEIGHTS AREA**  
**NEIGHBORHOOD PLAN" AS AN APPROVED SUBAREA**  
**PLAN, WITH CORRESPONDING AMENDMENTS TO THE**  
**LAND USE PLAN.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval, with amendment to the Land Use Plan.

Proponents

1. **Lonnie Dickson of Hannah Keelan**, the planning research firm retained to assist the neighborhood group and devise the neighborhood plan, made the presentation. Development of this plan was a broad based citizen participation process, including the Oak Hills and Arnold Heights neighborhood associations and subdivisions throughout the Greater Arnold Heights Area. Dickson discussed and explained the four different components as set forth in the plan: Introduction, Description & Analysis, Neighborhood

Direction and Recommendations.

One of the components was identification of population. The primary study area had a population in 1999 of 4,663, and over the next 5 years to 2004, we are seeing and projecting that the population will increase by an additional 579 persons.

Another issue in terms of consensus was the age group sections. The most emphasis was the high numbers of school age children. They also looked at existing land uses in the developed neighborhoods in Arnold Heights. The overriding predominance of land use types is vacant agricultural areas with concentration of neighborhoods as well as Airpark and Industrial Park. The study also identifies that the needs, wants and desires were to develop a future land use plan which corresponded to the goals and objectives of increasing the likelihood of creating retail establishments to fully serve the community.

Through this process, the conclusion was reached that there are developers who want to continue to develop in the Greater Arnold Heights area. By building the critical mass and encouraging additional residential development, there will be more opportunity for additional retail/commercial uses for neighborhood service centers.

Hunter noted that the Health Department refers to concerns about potential industry located around the area. They mention that the potential for chemicals that would be located in close proximity to residential area is a concern. Dickson responded, stating that currently, the existing zoning in Air Park Industrial Park is I-1 with quasi-public uses, i.e. church and correctional facilities. They did show businesses that had more commercial slant as opposed to industrial, but looking at the existing uses in the I-1, it was acknowledged that commercial and industrial are collocated in I-1. The neighborhood was advised to work through a collocation process with Airport Authority in terms of reidentifying some of those areas. Through that negotiation process it was the desire of the neighborhood to allow the strip between N.W. 48<sup>th</sup> and 47<sup>th</sup> to remain as a public open space corridor to lessen the impact of adjacent industrial areas upon single family areas, and that is what Health picked up on. The plan tries to encourage that what is there today remain. In the original land use plan they identified an additional block face between 47<sup>th</sup> and 46<sup>th</sup> as commercial, but through consensus building, it was agreed to scale it back to allow the 46<sup>th</sup> and 47<sup>th</sup> block strip to show industrial uses. The plan still encourages that low density commercial type uses and industrial be located against that buffer strip to further lessen the impact.

**2. Beverly Fleming**, appeared on behalf of the **Lincoln Housing Authority**, in support. The Lincoln Housing Authority (LHA) financed this project because several years ago LHA was constantly approached by neighborhood people about issues they did not feel they could do anything about. LHA is one of the major property owners in this area but the issues were lack of grocery stores, the school situation, and lack of activities for children and teenagers. LHA came to the conclusion that there was a need for some other kind

of planning study and that is why LHA has proposed to finance the project. LHA is pleased with the document presented as it addresses many of the concerns and issues that have been brought to the attention of LHA. LHA is very pleased with the recommendations and the guidance of this document.

**3. Jeff Schwebke, of the Arnold Heights Neighborhood Association** and member of the Steering Committee, testified in support. He extended appreciation to LHA for their guidance and assistance. He is hoping to continue to see development in the neighborhood and see continued growth towards the services they need.

**4. Terry Schwimmer**, resident of Arnold Heights and served on the Steering committee, testified in support. This is a great area that is underserved and he supports the plan.

#### Opposition

**1. Mike Johnson attorney for Lincoln Airport Authority**, testified in opposition. A large part of this plan deals with Lincoln Airport Authority property. This land was the old air base that was conveyed by the US Government to the City, with the care, custody and control transferred to Lincoln Airport Authority (LAA) with covenants by the Federal government that the LAA use this property to support and operate the airport.

Johnson noted that the consultant stated that there was consensus. There is not consensus on this item. The plan recommends restriction of the development of this property in numerous ways that they disagree with. The whole concept of development of this property is charged to the care and control of the 5-member board of LAA. Development proposals have come to this board and the board has made their decisions on how the land is to be used. It is in their control and jurisdiction and development is the decision of LAA.

Johnson and LAA recognize that Arnold Heights has needs and the airport wants to be a good neighbor; however, LAA represents the entire community. The object of an elected person is to represent the constituent, which is the entire community in this situation. The plan restricts development to commercial, parks and green space, with other areas that are being used for recreational development now. The recreation facilities are leased by the city on a year-to-year lease. Whether the city will continue in that vein they do not know from year to year. If the city discontinues their efforts, the LAA would not continue that

effort either. At this point, the final draft of the report that is being reviewed by the Commission has never been submitted to LAA until they read the agenda last Friday. They received the document on Tuesday. They do not agree with the language. The development and use should be left to the elected officials charged with control of its development.

Newman asked whether any of the LAA board members live in Arnold Heights. Johnson stated that, no, they do not.

Carlson referred to a letter from Mr. Wood of the LAA dated 3/17/2000 which refers to the draft document. Johnson agreed that LAA saw the first and second draft, but they have not seen the final draft. They did meet about the first draft. The concerns stated in Mr. Wood's letter about the second draft have not been resolved.

Carlson asked whether Johnson was aware of the Planning staff alternative. Johnson was not aware of the staff's alternative. Johnson has read the staff report, but he did not know about the alternative. Carlson wonders if those deviations by staff address the LAA needs. Johnson stated that they do not solve their problem.

Johnson confirmed that no one from the airport served or was invited to serve on the Steering Committee. LAA did not participate in the drafting of the document.

**2. John Wood, Executive Director of Lincoln Airport Authority**, testified in opposition. He acknowledged that he did express concerns back in March, subsequently had a meeting at the airport sometime this summer, and then he understands this plan came out in August. The LAA did not get this document and their concerns are still contained in the report.

Wood also confirmed that the LAA was never invited to sit on the Steering Committee.

Carlson asked staff to address the LAA concerns. Steve Henrichsen of the Planning Department believes that the staff alternative addresses the concerns of the LAA. He believes that most of the LAA concerns were resolved through changes in the text of the subarea plan; however, there are two items which have not been addressed. The alternative recommended by the Planning Department provides that the area east of N.W. 48<sup>th</sup> be shown as industrial except for that area which is currently the open space buffer between N.W. 47<sup>th</sup> and N.W. 48<sup>th</sup>. The Steering Committee proposed that some of the existing uses—rec center—remain in the future land use plan shown as parks and recreation or public. The Staff alternative would show all of that area as industrial.

Another item unresolved by the Steering Committee proposal involves continuing to show N.W. 47<sup>th</sup> to 48<sup>th</sup> as an open space buffer, with LAA signage and formal planting of trees. The second area of disagreement is the northeast corner of N.W. 48<sup>th</sup> and West Adams.



It is owned by the LAA and is today vacant. To the north is the grid pattern established for the former base. The Steering Committee recommends that the western portion nearest the residential be shown as commercial, and the rest as industrial. LAA would like the entire area shown as industrial, as well as everything in the staff recommendation shown as open space be shown as industrial.

Henrichsen pointed out that this is a subarea plan. This is not an amendment to the zoning map. East of N.W. 48<sup>th</sup> is zoned I-1 today and owned by LAA. They have the right to do the industrial uses and are not necessarily restricted by the city. The LAA is not bound by the Comprehensive Plan as it is a guide, and is not bound by the zoning ordinance.

Rick Peo, Law Department, clarified that other governmental bodies are not subject to the city's zoning jurisdiction to the extent they have eminent domain powers to do certain functions. LAA has authority to build airports. He is not certain what their authority is with other uses outside their function.

Peo also clarified that the Comprehensive Plan is a general guide and is not binding. The zoning would not be changed by this action.

Henrichsen pointed out that there is an error in Figure 3. The southeast corner of West Adams and N.W. 48<sup>th</sup> is zoned I-2 and is owned by the Chamber of Commerce or an industrial corporation and is in the process of sale and replat for commercial and residential uses. Therefore, the staff amends Figure 3 so that the area in the southeast corner would continue to be shown as industrial as shown in the Comprehensive Plan today. This property is not owned by the LAA.

Bayer suggested that the appropriate motion would be approval of staff recommendation, as amended. Or the Commission could amend the text of the subarea plan.

Hunter does not understand how the Commission can adopt a plan on property that belongs to LAA. Henrichsen pointed out that there is also property owned by the City; Lincoln Public Schools, etc. The Comprehensive Plan has land use designations for federally and state owned property as well. The Comprehensive Plan provides a guide for the entire community no matter who owns the property.

#### **Response by the Applicant**

Dickson did not object to the Planning Department alternative as shown on Figure 3. Figure 3 still represents the desires of the neighborhood as well as the Steering Committee. In trying to come to a consensus with LAA, Dickson submitted that Figure 3 does represent as much of a consensus as they can come to. The commercial area on the northeast corner of N.W. 48<sup>th</sup> and Adams represents an opportunity to instill

commercial and retail development in a centralized fashion within the Greater Arnold Heights Neighborhood that will help to further spur development. Dickson acknowledged that I-1 does allow commercial as well as industrial uses. They also believe that the open space strip between 47<sup>th</sup> and 48<sup>th</sup> can help to maintain existing buffering mechanisms that are in place and encourage them to be built upon.

With regard to cooperation with LAA, Dickson would not describe it as a problem, except for the wants and desires of the neighborhoods and residents compared to the operational mechanism of LAA. Dickson believes that they tried to come to consensus and to address the LAA's concerns and he believes the majority of their concerns have been met. Representatives of LAA were acknowledged as part of the committee process and attended at least one of those meetings. Their presence was acknowledged and there were exchanges throughout the process.

Hunter is concerned because it appears that LAA believes they were left out of the loop versus having exchanges throughout the process. Hunter believes all concerned parties need to be involved in every step. The LAA didn't seem to feel like they were included. Dickson recalled that LAA was on the mailing list receiving times and locations of meeting dates throughout the process. He believes the Steering Committee did make special considerations to meet with them to come to consensus after draft 1 and draft 2.

Hunter wondered about deferral to provide an opportunity for further resolution with the LAA. Dickson believes they have tried to come to a consensus but there are two stumbling blocks. The residents of the neighborhood want to instill their goal of a buffering mechanism between industrial and low density residential areas.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Taylor moved to approve the Planning staff recommendation, with amendment to Figure 3 as submitted by staff today, second by Newman.

Duvall will not vote in favor. We have a very large public body (LAA) that has not been included in the process.

Carlson believes the staff alternative recommendation is a pretty good attempt at compromise, which ends up with two items of disagreement—the corner of commercial and the buffer strip. In that sense, if the Comprehensive Plan is a guide, then he does not believe we are imposing any undue restrictions on the property.

Newman commented that the Comprehensive Plan is not set in stone and what happens will happen. She does not see any problem approving this.

Hunter believes that approving this adds detail to the Comprehensive Plan. She knows how much the Commission has tried to respect the Comprehensive Plan but she has a conflict in adding this kind of detail. Rick Peo of Law Department advised that if the LAA comes forward to build anything, only the zoning district map would be considered. The Comprehensive Plan would come into effect if a change of zone is requested. This does not affect existing use of the property under its present zoning. It raises the possibility that someone might ask for the change of zone, but the city is precluded from doing that against the property owner's wishes. This action only shows what everyone thinks should be the future of this area and does not affect existing or potential uses today. For example, you cannot require a property owner to create a park.

Motion for approval of the staff recommendation, as amended, carried 7-1: Krieser, Newman, Hunter, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Duvall voting 'no'; Steward absent.

**COMPREHENSIVE PLAN AMENDMENT NO. 94-59**  
**TO AMEND CHAPTER 4, TRANSPORTATION, OF THE**  
**1994 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN**  
**TO ADOPT THE "LONG RANGE TRANSPORTATION PLAN" (LRTP)**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval

Proponents

**1. Mike Brienzo** of the Planning Department reviewed the proposal to amend Chapter 4 of the Comprehensive Plan according to the review draft of the Long Range Transportation Plan (LRTP). The LRTP is a long term plan for improving and maintaining the transportation system, including improvements for the street network, public highways, public transit, railroads, airports and the trails network. There are several reasons to bring this forward: 1) federal regulations require us to have a current and valid LRTP. The current Comprehensive Plan was adopted by the MPO in 12/94 and five years have lapsed. We are in the process of updating that plan according to the regulations which requires a broader view than the annual transportation update. This is a broader overview and review of the goals and policies as set by the Comprehensive Plan and the improvements. The LRTP is to coordinate planning between the city, county, state and other transportation agencies to keep pace with the Land Use Plan adopted last year and addressing the growth areas of Lincoln.

Brienzo further explained that the review draft document was developed with citizen

groups; the LRTP advisory task force met over the last eight months to advise staff and provide input; there was a special StarTran Task Force that worked on the public transit elements; a subcommittee of the Mayor's Trails and Pedestrian Committee worked on the trails element.

The proposal begins with the current Comprehensive Plan as its base and then builds upon that base. There are several major improvements in the plan identified in Figure 31. The major elements in the plan that were considered but which are not part of this amendment are the south and east beltways and the Antelope Valley Project. They remain as studies in the LRTP and are coming forward in the future as a separate amendment.

Interstate 80 was added to this plan, proposed as 6 lanes throughout the county; East O Street reflects the approved design elements that have been adopted; the key element to the plan is the 2+ center turn lane for the built environment. This continues the recommendation of the Congestion Management Task Force. The proposal is to continue widening two-lane roads in the built environment to two lanes plus center turn lane. It addresses the growth areas to the north and south along the mile line arterial configuration. To the south it addresses the S1 and S2 growth areas; the N1 and N2 growth areas in the north; and maintains the mile line arterial system to the southeast; another area to the northwest has been developed into the four-lane configuration; the West "A" area network has been fully developed with 2+ center turn lane configuration; there is a viaduct introduced along S.W. 40<sup>th</sup> over the railroad lines providing a rear entrance to the West A neighborhood area.

Other highlights include continued development of four-lane proposal for Capital Parkway from 56<sup>th</sup> to 84<sup>th</sup> Street. Hwy 2 is proposed to be a 6-lane facility from Van Dorn south to approximately 48<sup>th</sup> Street. Intersection studies are proposed for 14<sup>th</sup>, 56<sup>th</sup> and 84<sup>th</sup>. Hwy 6 between Sun Valley Blvd and Cornhusker Hwy is proposed for realignment reflecting the current Comprehensive Plan.

Brienzo pointed out that there are six needs analysis study areas--areas that require further analysis and are identified as studies in the plan. They are in sensitive or older neighborhood areas, including the Wilderness Park connection across Yankee Hill Road; South 14<sup>th</sup> from Hwy 2 to Old Cheney; 14<sup>th</sup> Street from Antelope Valley to Cornhusker Hwy and to I-180; Humphrey Avenue and Pennsylvania Avenue from No. 1<sup>st</sup> to North 14<sup>th</sup>; U.S. Hwy 34 for the northwest; and the segment of University Heights along North 48<sup>th</sup> Street.

There are capacity enhancement study areas where capacity is identified as needed--areas where we intend to add capacity but there needs to be more detailed study to identify scheduled need and the corridor. Between 1<sup>st</sup> and 14<sup>th</sup> Street from Cornhusker Highway north to Superior Street; 70<sup>th</sup> Street to 84<sup>th</sup> between O and Cornhusker Highway are identified for additional capacity.

One other element would include Public Way Corridors. It is important to note that as that amendment is identified it would become part of this plan.

The Planning Commission recommendation will go forward to the City Council and County Board. The MPO will review and transmit the Plan to the State, FHA and Federal Transit Administration.

### Proponents

**1. Phyllis Hergenrader**, 5701 Yankee Hill Road, testified in support. She has studied this in detail. On balance she believes it is a very good plan which will, if constructed according to the plan, meet the future transportation needs for the Lincoln metropolitan area. There are two specific recommendations she wants to discuss. It is proposed that the beltways and Antelope Valley remain as specific studies. Based on her own personal observation of increased truck traffic on Hwy 2 and future projections, she believes that the south beltway needs to be built as soon as possible. Noting the rising interest in extending Wilderness Park to the south, she believes it makes good sense from an economic and political standpoint to acquire the necessary right-of-way across Salt Creek for the south beltway as soon as possible. A needs analysis study area should be included for the Yankee Hill Road/Hwy 77 connection bridging Wilderness Park. As a taxpaying citizen, how much taxpayer's money is going to be spent studying this idea before it is ultimately rejected? It has already been studied at least 3-4 times using public funds. The crossing was previously included in the south beltway studies as non-beltway option #1 and was rejected by HWS for a variety of reasons, including environmental regulations plus the likely litigation and associated costs that would ensue from any attempt to cross Wilderness Park with a new roadway. The Wilderness Park mediation group also considered the issue of new roads crossing the park. The Parks Department recommendation on the Wilderness Park subarea plan states that: "no increase of human disturbance such as additional roads, trails, utilities corridors, etc. should be permitted, especially in the southern 2/3 of the park". The S1/S2 transportation study was included as part of the Wilderness Park subarea study. One option was the crossing of Wilderness Park at Yankee Hill Road. A bridge connection between 14<sup>th</sup> and Hwy 77 was discussed; however, several of the recommendations were not supported by the study data. A modeling study of alternative network options also included crossing Wilderness Park. How many taxpayer dollars are going to be spent studying a new crossing of Wilderness Park at Yankee Hill Road? She objects to this waste.

Hergenrader believes the LRTP has many great ideas and planned improvements, such as beltways, Antelope Valley, expanding the arterial grid and widening Hwy 2, which will go a long way toward meeting the needs. Hergenrader recommended that before a needs analysis study for the Wilderness Park crossing at Yankee Hill Road is put in the Comprehensive Plan and therefore in line to receive even more taxpayer funds, the future planned roadway improvements should be completed. Let's make those improvements

and see what impact we have on alleviating transportation problems. We would know then whether a needs analysis was a justifiable expenditure of tax dollars, but let's not give needs analysis more stature than it deserves. Hergenrader requested that the needs analysis study for the Wilderness Park crossing be deleted from the LRTP.

### Opposition

**1. Richard Schmeling** testified in opposition. He grew up in south central Nebraska, was educated at UNL, received a law degree; went to the US Army Transportation Corps and completed the basic officer's course. As such he studied motor transportation, rail and seat transportation. He has had an avid interest in railroad transportation since he was four years old.

Schmeling is currently the chairman of the Board and former President of Pro-Rail Nebraska. He has looked at the plan and quite frankly, he sees no innovation, no vision and nothing in this plan that would indicate that we properly analyzed the problems that Lincoln faces and is going to face. There is a proposal to build a commuter rail between Lincoln and Omaha and he finds no mention of that in this transportation plan and what part that system could play in dealing with the future needs. Kawasaki is going to build light rail and passenger rail cars in Lincoln but there is no mention in the Comprehensive Plan of light rail for Lincoln.

Schmeling contends that the basic problem is that we have a proposal to deal with future traffic congestion by paving and expanding lanes and building. We're going to pave over the City. Regarding the beltways, every study that he has seen says that the further out you build these beltways, the less pressure that takes off the interior street system. And what have we done? We've moved them clear out east and clear out south. They are not going to help our traffic within the city.

Schmeling has watched with great interest the debate about ambulance service. If all we do is continue to deal with traffic and transportation needs by building more streets and widening, those ambulances won't be able to get where they need to go. We're going to get gridlocked. Do we have vision for 25 years, or are we doing this thing piecemeal?

This plan needs to include some alternatives to building more roads. He can move as many people on a single track of a double track railroad line in an hour as he can on 10 lanes of highway or street. We can decrease the unfavorable emission problems if we can get people to ride the rail system as opposed to driving their cars. The average car occupancy is 1.2. This is not efficient transportation. This plan encourages people to drive their vehicles and when we build those roads we are going to clog them and fill them. When we add two additional lanes to a four-lane roadway, we think we've increased capacity by 50%. In actuality we add 40% capacity. Let's add a couple more lanes. We then gain 30% total capacity increase. The next two add 20% and when we get to five

lanes each direction, we add 10%.

Schmeling wonders whether this is a wise investment of taxpayer's money. He doesn't think so. Everywhere the light rail has gone in, the ridership has exceeded the projections. Schmeling suggested that this draft be returned to the staff to include alternatives to widening streets and building beltways to include commuter rail and light rail. Schmeling does not see any provision for light rail right-of-way in the public way boulevard concept. It should be included.

**2. Mark Hunzeker** appeared on behalf of the **Home Builders Association and the Lincoln Board of Realtors**. Hunzeker requested that the references in this document to the Public Way Corridors be taken out if a recommendation on the LRTP is forwarded today.

Hunzeker also pointed out that this proposed amendment will put into the plan a right-of-way standard for virtually all arterial streets of 120', which is now 100' with 120' at major intersections. He believes this contradicts the text of the amendment which refers to the standards on Figures 29 and 30. Hunzeker attended a meeting where the volumes were projected and he believes that none of the traffic volumes that were projected except in rare exceptions, justified street improvements that exceed two lanes, much less four lanes with dual lefts and right turn lanes. The numbers generated by the computer models do not justify the D+ right-of-way. We already have standards that are in the plan that show 120' of right-of-way being called for at major intersections, but even by Figures 29 and 30 that D+ cross-section is for major commercial areas and there are no major commercial uses shown in the land use map anywhere south of Pine Lake Road, except possibly along South 14<sup>th</sup> Street. Hunzeker suggested that some modification of those rights-of-way would be appropriate. If you stayed with the D right-of-way section with the D+ at major intersections, it would make some sense. To the extent there is traffic data to support wider right-of-way, then those could be identified on an individual basis.

#### Response by the Applicant

Schwinn inquired of staff as to the south bypass and Wilderness Park crossing. Brienzo advised that in the study, the south bypass was assumed to be completed at the middle alignment. It is not in the plan as a facility. It was assumed during the technical elements of the study. The overpass of Wilderness Park was included in some of those initial network analyses, which shows that it would serve the southern area just like the Wilderness Park study suggests. It does not take traffic off of the south bypass. It serves local traffic. It does take traffic off 14<sup>th</sup> Street. The staff felt that it was premature to put it in the plan since it is a developing area. There is potential in the future to make adjustments to the land use plan.

Schwinn was not sure he wanted to make all the streets 120' row. D+ is separate from the

Public Way Corridors in terms of traffic projections. He wondered why 98th Street isn't 98<sup>th</sup> shown as a D+ designation. Brienzo explained that to be because it is outside the future urban service limits.

Newman asked staff to address the question about why we're not talking rail transit, i.e. this is a catch-up rather than projected. Brienzo clarified that most of the improvements that are added are on the fringe areas and there is a need to serve the growth areas. In terms of light rail, that is designed to serve dense land uses or high intensity land uses in terms of direct movements between two locations. Traffic patterns in Lincoln are dispersed in webs rather than single line systems. Public transit was addressed in the committee.

Kent Morgan of the Planning Department advised that the StarTran task force did address the light rail issue. It will be looked at in the context of a regional type of system connection to Omaha and he is sure it will be looked at in terms of the context of the growth of the city. It is perhaps premature. We would like to see the results of the Pro Rail feasibility study that is being developed. Morgan assured that it will be addressed.

Carlson noted that the overpass remains a study area. Are we spending money on that? Brienzo responded that the subarea study completed by Olsson Associates recommends a more detailed study. We weren't ready to move forward with that study and wanted to complete the overall system study. Keeping it as a future study is to be forward-thinking. We don't want to lose any opportunities.

Carlson wanted to know the process for that more precise study. Brienzo explained that we need to get some of the network developed and determine the intensity of growth to the south before we take that on. This LRTP is a one and 25 year improvement program. Carlson wondered who would be authorized to use of those funds. Brienzo stated that it would be an administrative decision to move forward with the study, authorized by the City Council or the Mayor. The possibility exists that taxpayer funds will be spent on this study.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Duvall moved approval, with amendment deleting references to the Public Way Corridors, seconded by Newman.

Duvall pointed out that a lot of this plan was catch-up because we needed a current 5-year study. We need a current plan to access federal funding. Due to change in administration we fell behind.



Newman would like to be a part of the transit question. There were things that were improved by the StarTran Task Force. She believes they have done a good job playing catch-up. Leaving the bridge over Wilderness Park as a study would allow us to address it again in the future if needed.

Hunter agreed. In the concept of making sure the city has all the options available, leaving the potential for a study there is no damage, but eliminating it deletes that option. While maybe a lot of plans in the past have been more short-sighted than they could have been, long range planning is to open up all the options.

Schwinn stated that originally, he was going to lean toward too many lanes being designated as D+, and maybe that should be dealt with when we reach finality on the Public Way Corridors. He will leave them in place because we need to have the ability to let people know that this can happen. As these areas are populated, it would be nice to know that they will be major thoroughfares. This is probably one of the most ambitious looking long range transportation plans he has seen in a long time and he is very pleased at the work that has been done by the committee and the staff.

Carlson was also very pleased.

Motion for approval, with amendment deleting Public Way Corridor references, carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**STREET VACATION NO. 00013**  
**TO VACATE X STREET FROM THE EAST LINE**  
**OF NO. 8TH STREET TO THE WEST LINE OF NORTH 9TH STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer;  
Steward absent.

Planning staff recommendation: Denial

Jennifer Dam of Planning staff submitted a letter from the North Bottoms Neighborhood Association in opposition, and a letter from Mr. Sidles on behalf of the applicant, who has scheduled a meeting including city staff and the neighborhood representatives to try and discuss the issue, which meeting is set for September 29<sup>th</sup>.

Proponents

**1. Bud Sidles, President and owner of Capital Contractors**, testified and advised that in an effort to work with the North Bottoms Neighborhood, he has set up a meeting for September 29<sup>th</sup> to meet with the Neighborhood Association Board. This meeting will also incorporate the city staff including Planning, Public Works and Urban Development. Sidles requested deferral until November 1<sup>st</sup>.

Schwinn moved to defer with continued public hearing and administrative action scheduled for November 1, 2000, seconded by Duvall and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There was no other public testimony.

**ANNEXATION NO. 00004**  
**and**  
**CHANGE OF ZONE NO. 3278**  
**TO CHANGE THE BUILDING LINE DISTRICT**  
**and**  
**PRELIMINARY PLAT NO. 00019, SOUTH STREET BUSINESS PARK.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer;  
Steward absent.

Planning staff recommendation: Approval of the Annexation and Change of Zone, and conditional approval of the Preliminary Plat.

Ray Hill of the Planning Department submitted a memo from the Parks Department with no additional comments, and a memo from the Fire Department finding the annexation acceptable.

Proponents

1. **Mark Hunzeker** appeared on behalf of the developer of this site. He believes the annexation and the building line district change are self-explanatory. They have met with staff for several months. This is an 84 acre site basically all in the 100 year floodplain. The Corps of Engineers study assumed that this entire floodplain area would be filled 100% up to the designated floodway. In accordance with that study and city regulations, the developer has obtained a permit to push fill on this property, which has largely been done, with the exception of about a 15-acre site which is being proposed to the Corps as a wetland bank. The agreement is under review and they have received very positive comments from the Corps and NRD. He anticipates the agreement will be back from the Corps soon.

Hunzeker explained that the proposal is for an upscale business park which will be a significant improvement in this area. They are in the process of drafting restrictive covenants which will require significant landscaping on each of the lots in addition to controlling construction materials, signage and plant approval. The developer has modified the street system, worked out drainage issues, modified access to the wetland areas, improved access to the dike along Salt Creek, and agreed to minimize the amount of fill on individual lots to raise only the building pad rather than the entire site, which is a substantial reduction in the amount of fill that could otherwise be legally placed on the property.

Hunzeker had only one condition of approval to address. The developer has requested a waiver of sidewalks adjacent to South Street and Folsom Street abutting this property. There are no sidewalks on the north side of South Street and there are no sidewalks on Folsom in either direction until you get between 1/4 and 1/2 mile north of South Street. Hunzeker suggested that Condition #1.1.1 be amended such that the sidewalks along South Street and Folsom Street are waived; however, the subdivider and its successors and assigns shall waive any objection to the creation of a sidewalk district at such time as the City of Lincoln deems sidewalks to be necessary.

There was no testimony in opposition.

Carlson wondered when the sidewalks would be deemed necessary if Hunzeker's proposed amendment to Condition #1.1.1 is granted. Hill suggested that it would probably be when there is enough foot traffic to justify a sidewalk. Because of the amount of frontage this individual has, if the city had a petition to put in the sidewalks, this group of individuals would not have the opportunity to protest that, which would lead to the fact that

they would most likely be installed if it becomes a need. Hill agreed with the proposed amendment to Condition #1.1.1.

Carlson sought confirmation that everything this developer has done is in compliance the floodplain regulations. Nicole Fleck-Tooze of Planning staff concurred that everything proposed on the plat meets the requirements of the subdivision ordinance that currently exist for floodplain issues. They have already obtained a floodplain fill permit from Building & Safety. Carlson stated that he has received citizen calls concerned about odors and dirt being moved around in this area. Fleck-Tooze advised that a floodplain fill permit can be issued prior to approval of the plat.

Newman noted that the ordinance provides that they cannot put in so much fill that it increases the height of the water 1'. Fleck-Tooze explained that the ordinance actually refers to a floodway and flood fringe. Within the fringe area they are permitted to place as much fill as they would like.

Fleck-Tooze further advised that the “no net rise” goes beyond our present requirements. Today we assume we would have 1' of rise. The Health Dept. did express that as a concern. This application does not propose “no net rise”. There presumably would be some amount of rise, but they are meeting all of the current regulations.

Response by the Applicant

Hunzeker added that if the amendment to Condition #1.1.1 is granted, then Condition #3 needs to be deleted.

With regard to floodplain, Hunzeker suggested that this plat does not raise the floodplain issue all by itself. The plat itself is really neutral relative to the floodplain. The developer has the right and has the permit to place the fill on the site as it stands today. We could do everything that we intend to do by this subdivision by use of private drives and simply constructing multiple buildings and doing a condominium on this site without coming to the city for approval at all. The subdivision itself is not a vehicle for enforcing floodplain policy.

But this application is in compliance with all the floodplain regulations and they are probably already about 90% complete on the fill that will get the property up. They have not filled the building pad sites yet because until you have building plans you don't know what the size will be. He anticipates that a lot of the buildings will have loading docks which will keep the grade down on half to two-thirds of the building.

Hunter expressed that she was at a loss to understand. It is scary to her having comments from the Health Department that strongly advocates no net rise, etc. Did the ordinance regarding storm water not go to the extent that it needed to address these kinds of things? Then what happens if there is a flood? Fleck-Tooze explained that the storm water ordinances that were recently adopted are separate from the issue of floodplain storage.

The staff has talked a lot about bringing something forward and is in the process of looking at some studies to identify the issues and solutions. The city is working with the NRD and Corps to collect studies to look at no net rise and no loss of flood storage. It is anticipated that within the next year, the staff will be in a position to bring forward some revisions to the floodplain ordinance to address the issue. This is a straight preliminary plat which meets the requirements of subdivision ordinance.

Hunzeker suggested that the Health Dept. has no regulations on the subject. It's a situation where no net rise really doesn't apply to floodplain or flood fringe areas. It applies to floodways. This developer has complied with all the regulations.

Public hearing was closed.

**ANNEXATION NO. 00004**

**ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION:** September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**CHANGE OF ZONE NO. 3278**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

**PRELIMINARY PLAT NO. 00019**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:** September 6, 2000

Duvall moved approval, with conditions, with amendment to #1.1.1 as requested by the applicant and deleting Condition #3, seconded by Schwinn.

Newman apologized, but building in a floodplain is a public health issue and she cannot vote for this. She urged the Board of Health to come up with a recommendation that says this is what the Health Dept. believes is correct or incorrect. She will not vote to approve because 20 years down the road, if this does flood downstream, she does not want to be responsible.

Rick Peo, City Attorney, interrupted the discussion. He noted a tendency to have protest votes and it is totally inappropriate. There are guidelines in the land subdivision ordinance that provide that the Planning Commission shall approve a preliminary plat if it complies with the minimum requirements. The function as Planning Commission is to abide by the requirements of the ordinance and approve things that do comply. Peo suggested that the Commission spends too much time on protest votes that should go

back to staff to change the law. In that case, Newman stated that she wants the no net rise legislation brought forward in the next two weeks.

Carlson noted that he had two or three calls about the dirt being moved. He understands that this complies with the standard as it exists. But this is analogous to what we continue to refer to as the acreage issue. We need guidance and resolution on these issues. It is not a protest vote but only to raise the issue. He will use this opportunity to urge staff to continue moving in the direction toward no net rise.

Motion for conditional approval, with amendments, carried 7-1: Krieser, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Newman voting 'no'; Steward absent.

**COUNTY CHANGE OF ZONE NO. 201**

**FROM AG TO AGR**

**and**

**COUNTY PRELIMINARY PLAT NO. 00018,**

**ROCA RIDGE,**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 68TH STREET AND ROCA ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Schwinn, Carlson and Bayer; Taylor and Steward absent.

**Proponents**

**1. Kent Seacrest** appeared on behalf of the applicant. The applicant is still working with the City of Hickman which has jurisdiction over the south 230 feet of this proposal. They have worked with the Hickman Planning Commission for four weeks and received a 4-4 vote. They have met with the Mayor of Hickman. Seacrest requested an additional four week continuance to October 4<sup>th</sup>.

Hunter moved to defer, with continued public hearing and administrative action scheduled for October 4, 2000, seconded by Schwinn and carried 7-0: Krieser, Newman, Hunter, Duvall, Schwinn, Carlson and Bayer voting 'yes'; Taylor and Steward absent.

**CHANGE OF ZONE NO. 3274**  
**FROM R-2 RESIDENTIAL TO R-5 RESIDENTIAL**  
**ON PROPERTY GENERALLY LOCATED AT**  
**SOUTH 46TH STREET AND PIONEERS BLVD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Schwinn, Carlson and Bayer; Taylor and Steward absent.

Ray Hill of Planning staff submitted a letter from the applicant requesting another two-week continuance until September 20, 2000. Hunter moved to defer, with continued public hearing and administrative action scheduled for September 20, 2000, seconded by Krieser and carried 7-0: Krieser, Newman, Hunter, Duvall, Schwinn, Carlson and Bayer voting 'yes'; Taylor and Steward absent.

The applicant was not present.

Opposition

1. **Joann Smith**, 4311 So. 46<sup>th</sup> Street, testified in opposition. The applicant has had one meeting with the neighboring landowners and their proposal is nowhere close to being acceptable. What the property owners find acceptable is what's available in the existing zoning. The biggest comment that came out of the meeting is that one of the landowners told them that if they don't agree, they will sell the property to someone who can get the zoning changed. She is hopeful that there are no more continuances and that we move on with this.

**CHANGE OF ZONE NO. 3238**

**FROM AGR TO R-3**

**and**

**CHANGE OF ZONE NO. 3239**

**FROM R-1 TO R-3**

**and**

**PRELIMINARY PLAT NO. 00001,**

**HAWKSWOOD ESTATES**

**ON PROPERTY GENERALLY LOCATED**

**AT SOUTH 70TH STREET AND OLD CHENEY ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Schwinn, Taylor, Carlson and Bayer; Steward absent.

Proponents

**1. Kent Seacrest** representing six property owners seeking this preliminary plat explained that this is an application by existing acreages trying to survive with the City surrounding them. The developer has staff support of the proposed layouts and they have worked everything out except the road network. It is very problematic because some people are not going to like the staff solution which will not then carry out the vision of the applicants. Seacrest requested additional time to work on the neighborhood to solve this dilemma. Southfork is opposed to the road network so we they will need to work with them as well.

Seacrest requested a four week deferral until October 4, 2000.

Hunter moved to defer, with continued public hearing and administrative action scheduled for October 4, 2000, seconded by Krieser and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There was no other public testimony.



**MISCELLANEOUS NO. 00006**  
**TO ADOPT THE PROPOSED "CITY OF**  
**LINCOLN DESIGN STANDARDS".**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

**Rick Peo of the City Law Dept.** submitted proposed revisions from the consultant, Blessing & Chase, in response to the concerns raised by the Home Builders at the public hearing held on August 23, 2000. These changes are minor and are being proposed subsequent to a meeting held with the Home Builders Association. Staff would recommend that the Blessing & Chase amendment be accepted.

**Emil Turek, of Lincoln Electric System,** discussed the issue about sky glow increase. The increase in light luminaries will go up 78% which in turn would mean that the light that is directed into the sky will also go up 78%. Depending on luminaries that developers choose, the light that goes up into the sky is only one to four percent of the total light emitted. Even though it is being increased 78%, it is still a small insignificant percentage as far as contribution to sky glow.

As far as the balance between adequate lighting for safety versus concern for conservation and increased cost of additional lighting, Turek demonstrated how the dark spot between the lights would be decreased and the higher level would be increased. It is a small increase in cost but LES recommends that it is worthwhile.

Carlson observed that obviously it is brighter, but he wondered whether LES had numbers to back up the presumption that brighter is safer. Turek had nothing other than industry standards on uniformity for different street traffic and speed levels. The industry standard is uniformity of 10-to-1, which is average light to minimum light. In going from dark to light as you drive down the street, you will be able to recognize something in your path. In going from light to dark you increase the chance of not picking up something in your sight. With these changes we could meet the industry standard of uniformity of 10-to-1.

Carlson inquired whether there are different standards on streets with different speed assumptions. Turek advised that there is a whole table of different light levels and uniformity as to pedestrian crossing versus arterial lighting; etc. LES is only recommending changes to the spacing and luminaries for residential streets. The traffic assumption there is that speeds are slower. For those streets, the recommended standard is uniformity of 10-to-1 and these changes would meet that standard.

Carlson wondered how difficult it is for an area to get an additional street light. Turek advised that LES would work with whomever and if it doesn't meet the guidelines it is still a good way to increase the light level, improving uniformity. These are handled on a case-by-case basis. Carlson is hopeful that that opportunity exists.

Proponents

**1. Mark Hunzeker** appeared on behalf of the **Home Builders Association and Lincoln Board of Realtors**. Generally speaking, he believes these changes are to the good. They reflect a lot of current practice and they also make several significant improvements from increasing the distance between manholes to changing some street grades to make it easier to make grades work at intersections of major streets and to providing a somewhat streamlined waiver procedure.

Hunzeker noted that the sanitary sewer and water main easements are increased from 20 feet to 30 feet. We seem to be on a role in terms of increasing widths of drainage corridors, rights-of-way and various kinds of public access nonbuildable areas within subdivisions. Hunzeker suggested that these increases are unnecessary and requested that they not be adopted.

As far as the water main size in industrial areas, Hunzeker observed that not all industrial areas will need 12" mains but there will be an opportunity to justify the smaller mains.

Hunzeker is concerned about elimination of using center islands for residential cul-de-sacs.

Hunzeker then referred to page 4 of the Executive Summary, #1 under "Rural Public Street Design Standards". He requested that the Commission consider not establishing 40 mph design speeds for interior rural subdivision streets. To the extent that you increase the speeds within the interior streets you simply encourage higher speed traffic and through traffic. We have been trying to maintain a relatively circuitous path through the middle of residential subdivisions in order to maintain a slower speed.

With regard to the street lighting standards, Hunzeker suggested that rather than a 10% increase, we're probably looking at 20-22% increase in cost on the street lighting standards which he believes to be a very marginal benefit for fairly significant additional cost. We do not need to increase the number or brightness of our residential subdivisions.

Hunzeker no longer has any objection to #3 on page 4 regarding an increase in maximum longitudinal grades for local and collector streets.

**2. Bob Hampton, President of Hampton Development Services and President of the Home Builders Association,** testified in support. He is glad that Public Works and Planning are making these changes. Most of them are really good. He would like to keep the islands in the cul-de-sacs. It provides a sense of place and nicer neighborhoods. With regard to the lighting increase in residential neighborhoods, Hampton commented that he has never heard any lot buyer or home owner say they want more street lights. The cost would be a 20-22% increase. Hampton is hopeful that the water main in industrial areas can be further refined because in many cases the 12" is not needed.

**3. Kent Seacrest** appeared behalf of **Ridge Development and Southview, Inc.** He echoed the sentiments that this is positive. However, he suggested that there needs to be about a 90 day grandfathering clause because there are subdivisions in the pipeline that should not be affected. His clients are not favorable to the requirements for 30' abutment of water and sewer. His clients have never been supportive of the sewer service stubs that are required. He questions whether or not changing the minimum centerline radius for local streets is a good idea. It increases speed in local neighborhoods.

With regard to #12, on page 4, of the Executive Summary, which requires public streets to be graded to provide slope from the building line to the curb, Seacrest believes there needs to be some provision that if they do provide adequate storm water on the streets, that this requirement is not necessary. You don't want to bring dirt in just to get the building to slope back to the street.

With regard to #16, on page 4, which establishes lateral obstacle clearance requirements, Seacrest agreed that this is great in new areas, but not in the older areas where we do a little widening of the street to get the middle pocket. He is afraid this standard could be used as a technique to remove trees in the older neighborhoods.

With regard to #17, on page 4, which talks about building sidewalks at the time they build the roads, Seacrest suggested that the builder is going to run over the sidewalk and break it up. There are other techniques that notify people that their sidewalk is coming.

With regard to street lighting, both wattage and spacing, Seacrest also has never had anyone complain that it is too dark in the residential areas. In a typical subdivision with 10,000 linear feet, that is a 22% increase in the number of poles.

Bob Hampton suggested that "within 2 years" be added to #3 of the Blessing & Chase letter regarding landscaping center islands: "All landscaping shall be installed along with the paving construction, within two years." Dennis Bartels of Public Works stated that the intent was to get the islands landscaped and he would agree to adding, "within 2 years."

Bartels also explained that Public Works has always maintained that we do not want a

building within 15' of the centerline for a water main. Public Works takes the position that 30' is better for water. Public Works can live with 20' for sanitary sewer.

With regard to the service stubs, Bartels explained that five or six years ago the Wastewater Department adopted that as a policy. We were having all kinds of pavement problems and not getting good backfill on the plumber cuts. Public Works objects to going back to making cuts. Wastewater made the taps and the plumber would go on from there.

With regard to the centerline radius for local streets (#4 on page 3 of the Executive Summary), Bartels explained that this has nothing to do with intersections. It's around a horizontal curve. We are required to design to the minimum design standards of the State Board of Public Roads, as well as the Municipal Code. If a local street doesn't have speed limit signs, the implied speed limit is 25 mph. By the handbook, with 125' centerline radius, that is approximately a 17 mph design speed.

With regard to installation of sidewalks, the subdivision ordinance requires the sidewalk along with the paving but we have not been successful in making that happen. Building & Safety cannot make a health and welfare argument on a sidewalk. They are reluctant to enforce sidewalks as a condition of occupancy.

Peo explained that currently, sidewalks have to be constructed within four years after subdivision approval. However, the pedestrian way sidewalks and commercial area sidewalks don't get put in. The desire is to tie the sidewalks to the road project.

With regard to the 40 mph speed limit for collector streets, Bartels advised that traditionally we don't see a wider collector type street in an acreage type subdivision. The typical street in the subdivision by this standard is still legal at a 30 mph design.

With regard to a 90-day grandfather clause, Peo advised that it is the intent to include a timeline for implementation in the Council resolution.

Carlson has concerns about the waiver procedures. Peo explained that this is the only waiver provision the staff put in because it was never in the design standards. We were doing it this way to have a consistent design standard waiver. The Commission could ask that the existing procedures be implemented into the design standards, which requires a submittal to the Planning Commission and/or City Council. Carlson sought clarification that the new procedure does eliminate some public hearings. Peo concurred that it will eliminate Planning Commission, but it would still be a report on the City Council agenda with the possibility of a public hearing if the Council disagrees with it. These are typically very technical. We were looking at the idea of speeding up the process and simplifying the matter, but yet still have the ability for someone to have public comment. Carlson suggested that the argument that it never comes up could be argument for not changing the procedure. Peo suggested that it's a matter of time. Sometimes you hold up a plat

because they need or want a waiver.

Public hearing was closed.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

September 6, 2000

Schwinn made a motion for approval, with the amendments set forth in the Blessing & Chase letter dated August 29, 2000, seconded by Duvall.

Amendment #1 - Carlson moved to amend to substitute the current waiver procedure into the new design standards, seconded by Hunter. Carlson is concerned about the waiver procedure because he believes we need to have a relatively high standard for eliminating the public hearing process. Giving the people opportunity to speak is paramount. If there are specific sections of the design standards that continually need waivers then we need to fix those sections. He does not see a big enough problem to eliminate any public hearing. Hunter agreed. We are here for that purpose, i.e. to review these projects as a whole. Motion to amend to substitute the existing waiver procedure in Title 1, Chapter 1.00, carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

Schwinn began discussion with regard to the sanitary sewer easements going from 20' to 30'. He believes he has built next to these and, as he recalls, he still had his 5' side yard requirement from that easement. Bartels disagreed. The setback is going to be from your property line. If you had sewer centered on the property line with the 20' easement centered on that, you would be 10' from the yard line but your building setback would be part of the easement. We allow people to build right up next to the edge of our easement and even allow a roof to overhang. The design standards are basically 30' for storm sewers if it is downstream. It might well have been 15' because of the 30' easement on a storm sewer. Schwinn decided that he could live with the 30' then. 20' is pretty close to be working if you are trying to fix a broken water main or something like that.

Amendment #2 - Schwinn made a motion to amend to delete #8 on page 2 of the Executive Summary, seconded by Duvall. This will end the requirement of running stubs underneath the city streets. Bartels explained that the sewer system in new subdivision is 100% installed by a contractor hired by the developer; the staking is done 95% by the developer's engineer as far as construction surveying when these sewers are being constructed. Public Works does not have the people to do full time inspection. The City still has to do taps on ones where the stubs aren't installed. This cost is recovered through the fee when a permit is taken out for it. The city would be covered cost wise, but he is not sure personnel-wise. Hunter wondered what would happen if it falls back to the city to tap the line. Schwinn suggested that we're disturbing less soil. It is still a developer responsibility. The plumber digs underneath and then the city taps it.

Motion to delete #8, on page 2 of the Executive Summary carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

Amendment #3 - Schwinn moved to amend to leave the residential lighting standards as they exist, seconded by Newman and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

Amendment #4 - Newman made a motion to amend to add the words "in newer areas" to #16 on page 4 of the Executive Summary. This relates to the establishment of lateral obstacle clearance requirements. Before this motion was seconded, Peo suggested that this would create a definitional problem—what do we mean by "newer area"? It is a more appropriate waiver issue. Otherwise, we will have to define what types of subdivisions are newer and which are not newer. Motion failed for lack of a second.

Newman moved to amend to delete #16 on page 4 of the Executive Summary, seconded by Carlson. Bartels explained that there is nothing in writing now with regard to lateral obstacle clearance. They try to get 6' of clearance and 2' is an absolute minimum. It's a safety issue. Carlson wondered about the enforcement procedure. Bartels explained that we don't get that kind of detail on a 100 scale drawing when reviewing a plat. Some of these standards are not only for platting purposes, but a tool for someone designing what we are looking for.

Hunter will vote against the amendment because she believes we need to err on the side of some sort of standard.

Motion to delete #16, on page 4, failed 2-6: Newman and Carlson voting 'yes'; Krieser, Hunter, Duvall, Taylor, Schwinn and Bayer voting 'no'; Steward absent.

Carlson noted that there was public comment about #12 on page 4 regarding grading of public streets to provide slope from the building line to the curb. However, no motion was made for an amendment.

Bayer clarified that this action has incorporated the Blessing & Chase amendments, including the additional language, "within 2 years", with regard to landscaping with the paving construction.

Main motion, as amended, carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

There being no further business, the meeting was adjourned at 8:45 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on September 20, 2000.